UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO – EASTERN DIVISION

ADF BELLA, LLC,
d/b/a AMISH DIRECT FURNITURE,

Plaintiff,

Case No.: ______________________

v.

Honorable ______________________

RIEGNER, INC.
d/b/a AMISH DIRECT FURNITURE,

Defendant.

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COMPLAINT AND JURY DEMAND

Plaintiff ADF Bella, LLC d/b/a Amish Direct Furniture states its Complaint against Defendant Riegner, Inc. d/b/a Amish Direct Furniture as follows:

PARTIES AND JURISDICTION

1. Plaintiff ADF Bella, LLC d/b/a Amish Direct Furniture ("Plaintiff") is a Michigan corporation. Plaintiff's principal place of business is in Sterling Heights, Michigan.

2. Upon information and belief, Defendant Riegner, Inc. d/b/a Amish Direct Furniture ("Defendant") is a Florida corporation with its principal office located at 1220 Ridgewood Avenue, Holly Hill, Florida 32117.

3. Upon information and belief, Defendant is transacting and doing business in this District by producing, purchasing, distributing, selling and/or offering for sale products using a name which infringes upon the rights of Plaintiff, as described below, and is thus subject to the jurisdiction of this Court.

4. Plaintiff's claims arise under the Federal Trademark Act of 1946, as amended, 15 U.S.C. § 1051 *et. seq.*; Ohio Unfair or Deceptive Acts or Practices, ORC § 1345.02; and the common law of the State of Ohio. This Court has jurisdiction of this matter pursuant to 15 U.S.C. § 1121, 28 U.S.C. §§ 1331, 1332, and 1338(b), and the principles of supplemental jurisdiction, as set forth in 28 U.S.C. § 1367.

5. Venue is proper in this District under 28 U.S.C. § 1391.

PLAINTIFF'S MARK

6. Since August 1999, Plaintiff and its predecessors in interest have been using the trademark AMISH DIRECT FURNITURE to acquire, sell and distribute furniture.

7. Over the course of that time, consumers and the furniture industry have come to recognize the name and trademark AMISH DIRECT FURNITURE with Plaintiff. Plaintiff has

acquired distinctiveness, secondary meaning, a valuable reputation and goodwill that is associated with its AMISH DIRECT FURNITURE trademark.

8. Plaintiff is the owner of Registration No. 5165977 issued by the United States Patent and Trademark Office ("USPTO") for the mark AMISH DIRECT FURNITURE for "retail store services featuring furniture; online retail store services featuring furniture."

9. Plaintiff has used its AMISH DIRECT FURNITURE mark widely and extensively in interstate commerce concerning the sale of furniture.

10. Through more than seventeen years of use and promotion of Plaintiff's AMISH DIRECT FURNITURE mark for furniture sales services, the furniture market has come to associate Plaintiff's AMISH DIRECT FURNITURE mark with Plaintiff, and Plaintiff has acquired a valuable reputation under Plaintiff's AMISH DIRECT FURNITURE mark.

DEFENDANT'S WRONGFUL ACTS

11. Defendant is in the same business as Plaintiff, namely the retail sale of furniture.

12. Defendant began using the name and trademark AMISH DIRECT FURNITURE for its sale of furniture in 2012.

13. Defendant's use of this trademark that is identical to Plaintiff's trademark began long after Plaintiff was using its AMISH DIRECT FURNITURE mark across the country, including in Florida, and has established distinctiveness and goodwill in Plaintiff's AMISH DIRECT FURNITURE mark.

14. Defendant's use of the AMISH DIRECT FURNITURE mark has never been authorized, licensed, or otherwise endorsed by Plaintiff.

15. Defendant's use of the exact same mark as Plaintiff, for the same services that Plaintiff provides, is likely to confuse, mislead, and deceive the consuming public and those in the furniture industry.

16. Defendant currently is engaged in such activity and unless enjoined by this Court, such activity will continue, causing Plaintiff irreparable harm.

17. Upon information and belief, the activities of Defendant complained of herein were done, and continue to be done, willfully with knowledge that such conduct was and is in direct contravention of Plaintiff's AMISH DIRECT FURNITURE mark, and is likely to confuse, mislead, and deceive the consuming public and those in the furniture industry.

COUNT I – Federal Trademark Infringement in Violation of Section 32 of the Lanham Act

18. Plaintiff repeats and realleges all the allegations contained in the preceding paragraphs of this Complaint, as though the same were fully rewritten herein.

19. Plaintiff is the owner of all right, title and interest in Plaintiff's AMISH DIRECT FURNITURE mark which was duly registered by the USPTO under Registration No. 5165977, on March 21, 2017, and holds the right to prosecute any infringement upon such rights for its sole benefit.

20. Defendant's use of the AMISH DIRECT FURNITURE mark constitutes the unauthorized use in commerce of a reproduction counterfeit, copy or colorable imitation of Plaintiff's registered mark and is likely to cause confusion and mistake in the minds of the furniture industry and the consuming public as to the source of Defendant's products in violation of 15 U.S.C. § 1114(1).

21. Plaintiff has not consented to Defendant's unlawful use of the AMISH DIRECT FURNITURE mark.

22. Upon information and belief, Defendant's actions were done, and have continued to be done, willfully with knowledge that such conduct infringes Plaintiff's AMISH DIRECT FURNITURE mark and injure Plaintiff's business reputation with the intent to cause confusion in the marketplace and trade on Plaintiff's reputation.

23. As a direct and proximate result of Defendant's willful and wanton conduct, Plaintiff has been injured and will continue to suffer irreparable injury to its business reputation unless Defendant is restrained by this Court from infringing the registered AMISH DIRECT FURNITURE mark.

24. Upon information and belief, Defendant plans to continue the conduct complained of herein. Plaintiff has no adequate remedy at law. The conduct of Defendant described above, has caused and, if not enjoined, will continue to cause irreparable damage and dilution to the rights of Plaintiff in Plaintiff's registered AMISH DIRECT FURNITURE mark and to Plaintiff's reputation and goodwill.

25. Plaintiff is also suffering monetary damage in an amount not yet determined.

COUNT II – False Designation of Origin and False Description in Violation of Section 43(a) of the Lanham Act

26. Plaintiff repeats and realleges all the allegations contained in the preceding paragraphs of this Complaint, as though the same were fully rewritten herein.

27. Defendant's advertising, offering for sale, sales, and distribution of furniture under the mark AMISH DIRECT FURNITURE constitutes false designation of origin or a false and misleading representation of fact in interstate commerce that is likely to confuse, mislead, and deceive Defendant's customers, purchasers, vendors and other members of the general public and the furniture industry as to the origin of Defendant's services or cause said persons to

believe that Defendant, its business, and its services have been sponsored, approved, authorized, or licensed by Plaintiff or are in some way affiliated or connected with Plaintiff.

28. Defendant's conduct constitutes a false designation of origin in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

29. Upon information and belief, Defendant's actions were done, and continue to be done, willfully. Defendant knew or should have known of the falsity of such designation of origin, descriptions, or representations and that its actions would cause confusion, mislead, and deceive its customers, purchasers, and other members of the general public.

30. Upon information and belief, Defendant plans to continue the conduct complained of herein.

31. Plaintiff has no adequate remedy at law. The conduct of Defendant described above, has caused and, if not enjoined, will continue to cause irreparable harm to Plaintiff's rights in Plaintiff's AMISH DIRECT FURNITURE mark, and to the business, reputation and goodwill of Plaintiff.

32. Plaintiff is also suffering monetary damage in an amount not yet determined.

COUNT III – Ohio Unfair or Deceptive Acts or Practices, ORC § 1345.02

33. Plaintiff repeats and realleges all the allegations contained in the preceding paragraphs of this Complaint, as though the same were fully rewritten herein. This is a substantial and related claim of unfair or deceptive acts or practices in violation of the Ohio Revised Code § 1345.02.

34. Defendant's conduct in the distribution, advertising, sale and/or offering for sale of products under the infringing mark causes a probability of confusion or misunderstanding of

the source, sponsorship, or approval of Defendant's services, and constitutes unfair or deceptive acts or practices in violation of the Ohio Revised Code § 1345.02.

35. Upon information and belief, Defendant's actions were done, and continue to be done, willfully, with knowledge that such conduct was and is in direct contravention of Plaintiff's trademark rights. Defendant knew or should have known that its actions would cause confusion among its customers, purchasers, vendors and members of the general public and the furniture industry as to the source, sponsorship, or approval of Defendant or Defendant's services.

36. Upon information and belief, Defendant plans to continue the conduct complained of herein. Plaintiff has no adequate remedy at law. The conduct of Defendant described above has caused and, if not enjoined, will continue to cause irreparable harm to the rights of Plaintiff's in Plaintiff's AMISH DIRECT FURNITURE mark, and to its business, reputation and goodwill.

37. Plaintiff is also suffering monetary damage in an amount not yet determined.

COUNT IV - Common Law Trademark Infringement and Unfair Competition

38. Plaintiff repeats and realleges all the allegations contained in the preceding paragraphs of this Complaint, as though the same were fully rewritten herein. This is a substantial and related claim of trademark infringement and unfair competition under the common law of Ohio.

39. Defendant's adoption and use of the AMISH DIRECT FURNITURE mark constitutes trademark infringement and unfair competition in violation of the common law of Ohio.

40. Defendant's conduct constitutes use of a false designation of origin or a false or misleading representation of fact that is likely to cause confusion, mistake or deception as to the source, origin, sponsorship, or approval by Plaintiff of Defendant and its services.

41. Defendant's conduct is likely to cause confusion or mistake or to deceive Defendant's customers, its purchasers, and members of the general public, and improperly trades upon the reputation and goodwill of Plaintiff.

42. Upon information and belief, Defendant's actions were done, and continue to be done, willfully with knowledge that such conduct is in contravention of Plaintiff's trademark rights in Plaintiff's AMISH DIRECT FURNITURE mark and Defendant knew or should have known that its actions would be likely to confuse, mislead and deceive its customers, purchasers, vendors and members of the general public and furniture industry, as to the source, sponsorship, or approval of its services.

43. Upon information and belief, Defendant plans to continue the conduct complained of herein. Plaintiff has no adequate remedy at law. The conduct of Defendant described above has caused, and if not enjoined, will continue to cause irreparable damage to the rights of Plaintiff in Plaintiff's AMISH DIRECT FURNITURE mark and to Plaintiff's reputation and goodwill.

44. Plaintiff is also suffering monetary damages in an amount not yet determined.

REQUESTED RELIEF

WHEREFORE, Plaintiff ADF Bella, LLC requests the following relief:

A. That Defendant, its agents, servants, employees, representatives, successors, assigns, and all persons, firms, or corporations in active concert or participation with Defendant, be preliminarily and then permanently enjoined and restrained from:

1. Directly or indirectly infringing Plaintiff's AMISH DIRECT FURNITURE mark in any manner, including, but not limited to, using the AMISH DIRECT FURNITURE mark to sell furniture;

2. Distributing, advertising, selling and/or offering for sale any product under the mark AMISH DIRECT FURNITURE or any other mark confusingly similar to Plaintiff's AMISH DIRECT FURNITURE mark and engaging in any other action or conduct that is likely to confuse, mislead, or deceive consumers, customers or members of the public that Defendant's services originate from Plaintiff or are in any way sponsored, approved, or licensed by or associated with Plaintiff or are in some way connected or affiliated with Plaintiff; and

3. Otherwise competing unfairly with Plaintiff in any manner.

B. That Defendant be directed to file with the Court and serve upon Plaintiff within thirty (30) days after issuance of any injunction, a report in writing and under oath setting forth in detail the manner and form in which Defendant has complied with the injunction.

C. That Defendant be required to deliver for destruction all items in their possession which bear the AMISH DIRECT FURNITURE mark and/or any other mark confusingly similar to Plaintiff's AMISH DIRECT FURNITURE marks, including but not limited to any promotional or advertising material, labels, packages, wrappers, containers, premium items and any materials used to produce the AMISH DIRECT FURNITURE mark on any such materials.

D. That Defendant be required to account for and pay to Plaintiff all profits, gains, benefits and advantages derived by Defendant from its conduct as alleged herein.

E. That Plaintiff recover from Defendant any and all damages suffered by Plaintiff as a result of Defendant's conduct as alleged herein.

F. That all profits and/or damages recovered by Plaintiff be trebled or otherwise increased as provided under 15 U.S.C. § 1117.

G. That Defendant be required to pay punitive damages to Plaintiff for its conduct complained of herein.

H. That Plaintiff recover from Defendant its costs of this action and reasonable attorneys' fees.

I. That Plaintiff receive any other relief that this Court deems just and proper under the circumstances.

JURY DEMAND

Plaintiff demands a trial by jury on all issues triable by a jury.

DATED: May 15, 2017

By /s/ R. Scott Keller

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